



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,401	02/26/2004	Donald O. Land	P-US-BP-0489	4526

7590 09/27/2005

Barry E. Deutsch, Esq.
APPLICA CONSUMER PRODUCTS, INC.
Suite 104
35 Thorpe Avenue
Wallingford, CT 06492

EXAMINER

RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
----------	--------------

2856

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,401

Applicant(s)

LAND, DONALD O.

Examiner

Robert R. Raevis

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-26-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boukhny et al in view of Guez.

Boukhny et al teach a method/system to automatically calibrate a ultrasonic device, comprising (Figure 4): generating a series of waveforms with a characteristic frequency (col. 9, lines 10-12); for each waveform measuring a "drive current" (col. 2, lines 17-18); recording values of admittance (col. 4, lines 1,2; col. 7) which are determined by the measured current value; and analyzing the stored values to determine a "new drive frequency" (col. 9, line 44) (i.e. a new resonance frequency). The method calibrates ("calibration" on col. 9, line 48), and the tested component includes "piezoelectric" (col. 1, line 60) material, and employs a digital signal processor (DSP).

Boukhny does not state that the current values are the flow of an amp, does not expressly state that the values are stored.

As to claims 1-4,6,7,9,-11,17, it would have been obvious to measure current values of an amp because Guez teaches that values from an amp may be employed to

Art Unit: 2856

determine the power output of a UT device. Also, it would have been obvious to store current values to provide for the required numerical computations in Boukhny.

As to claims 5,12,13,14, the typical range of frequencies used in phacoemulsification handpiece is around 50 kHz. (See col. 8, lines 46-48, of Kadziauskas et al.) In addition, the number of waveforms is a big number over time of use.

As to claims 8,15,16,17, the device removes fluid from the eye.

Claims 1,2,4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (EPO 0 424 685).

Williams et al teach a method/system to automatically calibrate a UT frequency device, including: generating a series of signals of “different” (col. 11, line 9) frequencies as a “sine” (col. 11, line 12) wave to an amp 136, measuring “current” (col. 11, line 23) flow of the amp; storing “power” (col. 11, line 36) information; and analyzing the stored values to determine resonant frequency (ABSTRACT).

Williams does not state that the current values are stored.

As to claims 1,2,4,6,7, it would have been obvious to store the current (and voltage) values in because it is known for a microprocessor (like William’s) to receive all the data of a system for calculation (storage), as opposed to utilizing a separate power monitor 138 (as expressly shown in Williams). Microprocessors store data.

As to claim 5, the typical range of frequencies used in phacoemulsification handpiece is around 50 kHz. (See col. 8, lines 46-48, of Kadziauskas et al.) In addition, the number of waveforms is a big number over time of use.

Art Unit: 2856

As to claim 8, the device removes fluid from the eye.

Claims 3,9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (EPO 0 424 685) in view of Guez.

Comments that exist above similarly apply here.

As to claims 3,9-17, it would have been obvious to employ a digitally synthesized waveform because Guez teaches digital synthesis frequency generator to drive a transducer of interest. Digital synthesis frequency generators provide for accurate and steady signals.

As to claim 12,13, the typical range of frequencies used in phacoemulsification handpiece is around 50 kHz. (See col. 8, lines 46-48, of Kadziauskas et al.) In addition, the number of waveforms is a big number over time of use.

As to claim 15,16,17, the device removes fluid from the eye.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 2856

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Raevis

RAEVIS